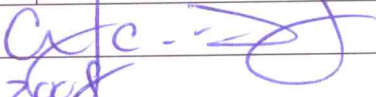


<p align="center">POLICY OF</p> <p align="center">STATE OF DELAWARE</p> <p align="center">DEPARTMENT OF CORRECTION</p>	<p align="center">POLICY NUMBER</p> <p align="center">8.60</p>	<p align="center">PAGE NUMBER</p> <p align="center">1 of 4</p>
	<p align="center">RELATED ACA STANDARDS:</p>	
<p>CHAPTER: 8 Administration</p>	<p>SUBJECT: Prison Rape Elimination Act</p>	
<p>APPROVED BY THE COMMISSIONER: </p>		
<p>EFFECTIVE DATE: January 22, 2008</p>		
<p>APPROVED FOR PUBLIC RELEASE</p>		

I. AUTHORITY: Prison Rape Elimination Act of 2003 (P.L. 108-79) ,
11 Del. C. 6517, 6535 and 29 Del. C. 8903

II. PURPOSE: To maintain a program of education, prevention, detection, investigation, and punishment for the perpetrator; treatment and support for the victim; and data collection in order to protect the inmate population from inmate on inmate sexual violence or staff sexual misconduct/harassment.

III. APPLICABILITY: All Department employees, volunteers, persons or organizations conducting business with the Department and all offenders under the supervision of the Department of Correction.

IV. DEFINITIONS:

A. Rape:

1. the carnal knowledge, oral sodomy, sexual assault with an object, sexual fondling of a person, forcibly or against that person's will;
2. the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person not forcibly or against the person's will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental health or physical incapacity; or
3. the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily harm.

B. Carnal Knowledge – contact between the penis and the vulva or the penis and the anus, including penetration of any sort, however slight.

C. Oral Sodomy – contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus.

D. Sexual Assault with an Object – penetration of the anal or genital opening of another person by a hand, finger or other object.

E. Sexual Fondling – intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks for the purpose of sexual gratification.

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F. Sexual Activity – physical contact between two or more persons of the same or opposite sex for the purpose of sexual arousal or gratification. Such contact includes active or passive contact, or the fondling of the genitals, hands, mouth, buttocks, anus or breasts of another person who expresses or implies consent to the accused offender.

G. Sexual Assault Response Team – a team comprised of three or more individuals, which shall include one medical staff, one security staff, one mental health professional and one person designated as the inmate victim services coordinator. Either the medical staff or mental health professional may serve as the inmate victim services coordinator.

H. Inmate on Inmate Sexual Violence – sexual physical contact without the other person's expressed (i.e. implied or verbal) consent or when the other person is unconscious or otherwise physically incapable of resisting or when verbal or written sexual proposals threatens or harasses another.

I. Staff Sexual Misconduct/Harassment – any behavior or act of a sexual nature directed toward an inmate, detentioner, probationer/parolee, by a Department of Correction employee, volunteer, contractor, official visitor or other agency representative. Sexual relationships of a romantic nature between staff and inmates are included in this definition.

V. POLICY: It is the policy of the Department of Correction that all employees are responsible for the prevention, detection and reporting of prison rape and sexual activity. An employee who fails to report inmate on inmate sexual violence or staff sexual misconduct/harassment is subject to discipline.

All allegations of staff sexual misconduct/harassment will be investigated and, if founded, will result in discipline up to and including termination. In addition, all founded cases will be referred to the Delaware Department of Justice for prosecution.

The Bureau Chiefs for Prisons and Community Corrections shall be responsible for developing Bureau level policies and procedures to implement this policy. Such policies will include Food Service and Maintenance employees that work in institutions where applicable.

VI. PROCEDURES: Procedures and processes will be standardized Department wide to the extent possible.

A. Education:

1. Employee: All employees will be trained on the Federal Prison Rape Elimination Act and this DOC policy. The Employee Development Center shall incorporate the Prison Rape Elimination Act into the Basic Officers Training Course and the Correction Employees Initial Training courses and any similar orientation curriculum offered by the Department of Correction.

2. Inmate/offender: All offenders under the supervision of the Department of Correction will be advised of their rights and protections under

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the Prison Rape Elimination Act. They will be informed of reporting, investigative and victim medical/support services. Multiple strategies may be utilized to ensure all offenders are aware of PREA. Offenders will be advised of the consequences of false allegations.

3. Contractual employees, volunteers and visitors – All employees, volunteers and others who provide on-going services or support to the Department facilities and offices will be informed of PREA and their responsibility to report incidents they have observed or allegations told to them by an offender or Department employee.

B. Prevention

1. Classification processes will include consideration of offender history and vulnerability to victimization as well as offenders who are known predators.

2. Prevention strategies must include the designation of an adequate number of protective custody or single cell beds to protect offenders reporting sexual assault or acts defined under this policy.

C. Detection

1. The Department will continuously monitor operational practices, design and structural barriers with a focus on improving detection of sexual activity and violence.

D. Investigation

1. Institutional Level - Allegations of inmate on inmate sexual assault or sexual activity will be investigated at the institutional level. Investigations may be transferred to the Internal Affairs unit at the request of the Warden.

2. Internal Affairs - All allegations of staff sexual misconduct and sexual harassment will be investigated at the Department level.

3. State Police - A Memorandum of Understanding between the Department of Correction and the Delaware State Police will govern allegations turned over to the State Police for investigation.

F. Inmate/Offender Victim Services

1. The medical services contractor will provide appropriate medical treatment to injured inmates. Steps will be taken to ensure protection and custody of evidence.

Inmate and offender victims will be advised of mental health support services available to them. Referral to these services will be made upon the inmate/offender's request.

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G. Data Collection

1. Monthly reports will be submitted by the Bureau of Prisons and the Bureau of Community Corrections to the Office of the Commissioner. The reports will include data necessary to meet the federally mandated reporting requirements and such other data as determined by the respective Bureau Chiefs to monitor and evaluate operations and enhance security measures.